

STATE OF NORTH CAROLINA
COUNTY OF LINCOLN

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
15-CVS-01391

DENVER GLOBAL PRODUCTS, INC.,

Plaintiff,

v.

ROGER LEON, KEITH PIERCY, and
JEANNE HENDRIX,

Defendants and
Counterclaim/ Third
Party Plaintiffs,

v.

CHONGQING RATO POWER CO., LTD.,
CHONGQING RATO POWER
MANUFACTURING CO., LTD.,
CHONGQING RATO TECHNOLOGY
CO., LTD., ZHU LIEDONG, LARRY
QIAN WANG, JIN XIANG, MICHAEL
PARKINS, GODWIN LENG, and RATO
NORTH AMERICA, INC.

Third Party
Defendants.

THIRD-PARTY DEFENDANT
CHONGQING RATO POWER CO.,
LTD.'S MOTION TO CONFIRM
ARBITRATION AWARD AND ENTER
FINAL JUDGMENT

Third-Party Defendant Chongqing Rato Power Co., Ltd. ("Rato Power") respectfully submits this Motion and requests that the Court (1) enter an order confirming two arbitration awards against Defendant and Third-Party Plaintiff Roger Leon ("Leon") entered by the Chongqing Arbitration Commission (the "Commission") in China and (2) enter final judgment accordingly.

Rato Power makes this Motion pursuant to the Federal Arbitration Act, 9 U.S.C. § 1 *et seq.*, the Convention on the Recognition and Enforcement of Foreign Arbitral Awards of June

10, 1958 (the “New York Convention”), the North Carolina Arbitration Act, N.C. Gen. Stat. §§ 1-569.1 *et seq.*, Rule 54(b) of the North Carolina Rules of Civil Procedure, applicable common law and the express arbitration agreements between Rato Power and Leon in the Equity Agreement and the Joint Venture Agreement (as each is defined in the supporting brief accompanying this Motion).

On August 10, 2016, the Commission served Leon with Rato Power’s arbitration demands and other documents related to the two arbitration proceedings commenced by Rato Power pursuant to the arbitration agreements in the Equity Agreement and the Joint Venture Agreement. The proof of service listing the documents served on Leon is attached hereto as Exhibit A. On October 6, 2016, the Commission served Leon with a notice of hearing and notice of composition of arbitral tribunal for the two arbitration proceedings. The proof of service of these notices is attached hereto as Exhibit B.

Pursuant to Article VI of the New York Convention, certified copies of the Equity Agreement and the Joint Venture Agreement are attached to the first Affidavit of Liedong Zhu, filed with the Court on May 13, 2016 (the “First Zhu Affidavit”).¹ Certified copies of the arbitration awards relating to the Equity Agreement and the Joint Venture Agreement are attached hereto as Exhibits C and D, respectively. Certified translations of the Equity Agreement and the Joint Venture Agreement are attached to the First Zhu Affidavit.² Finally, certified

¹ The Second Affidavit of Liedong Zhu (the “Second Zhu Affidavit”), filed contemporaneously with this Motion, certifies the copies of the underlying agreements that were originally attached to the First Zhu Affidavit.

² The Affidavit of Huang Ke, filed contemporaneously with this Motion, certifies the English translations of the Equity Agreement and the Joint Venture Agreement that were originally attached to the First Zhu Affidavit.

translations of the arbitration awards relating to the Equity Agreement and the Joint Venture Agreement are attached hereto as Exhibits E and F, respectively.³

In support of this Motion, Rato Power relies on the exhibits attached hereto, the Second Zhu Affidavit, filed contemporaneously with this Motion, and the pleadings and affidavits previously filed in this action. This Motion is accompanied by a supporting brief which is incorporated herein by reference.

Rato Power requests that the Court enter a final judgment as follows:

With respect to the arbitration award concerning the Equity Agreement (as defined in the supporting brief):

1. declaring that the Equity Agreement is lawful and valid; and
2. awarding Rato Power attorney fees in the amount of RMB 350,000 and arbitration fees in the amount of RMB 294,500.

With respect to the arbitration award concerning the Joint Venture Agreement (as defined in the supporting brief):

1. declaring that the Joint Venture Agreement is lawful and valid; and
2. awarding Rato Power attorney fees in the amount of RMB 850,000 and arbitration fees in the amount of RMB 627,500.

With respect to the judgment as a whole, declaring that there is no just reason for delay and certifying the judgment as a final judgment pursuant to Rule 54(b).

WHEREFORE, Rato Power prays that the Court (a) enter an order confirming the arbitration awards entered against Leon, (b) enter final judgment against Leon accordingly, and (c) grant Rato Power such other relief as the Court deems just and proper.

³ Rato Power's name has been changed to Chongqing Rato Group Holding, Co. Ltd. 2nd Zhu Aff. ¶ 3. The awards are in the name of Chongqing Rato Group Holding, Co. Ltd.

This 11th day of January, 2017.

s/ Douglas M. Jarrell

Douglas M. Jarrell
N.C Bar No. 21138
djarrell@robinsonbradshaw.com

Matthew F. Tilley
N.C. Bar No. 40125
mtilley@robinsonbradshaw.com

Stuart L. Pratt
N.C. Bar No. 43139
spratt@robinsonbradshaw.com

ROBINSON, BRADSHAW & HINSON, P.A.
101 North Tryon Street, Suite 1900
Charlotte, NC 28246-1900
(704) 377-2536

*Attorneys for Plaintiff Denver Global Products, Inc.
and Third-Party Defendants Chongqing Rato
Power Co., Ltd., Chongqing Rato Power
Manufacturing Co., Ltd., Chongqing Rato
Technology Co., Ltd., Zhu Liedong, Larry Qian
Wang, Jin Xiang, Godwin Leng, and Rato North
America, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served upon each of the parties to this action by depositing same in the United States mail, postage prepaid, in envelopes addressed as follows:

William Terpening
Jefferson A. Moors
Terpening Moors PLLC
6733-C Fairview Road
Charlotte, NC 28210
*Attorneys for Defendants Roger Leon and
Keith Piercy*

Jeanne Hendrix
2469 Suwanee Pointe Drive
Lawrenceville, GA 30043

Richard S. Glaser
James C. Lesnett, Jr.
Parker Poe Adams & Bernstein LLP
Three Wells Fargo Center
401 South Tryon Street, Suite 3000
Charlotte, NC 28202
*Attorneys for Third-Party Defendant
Michael Parkins*

This 11th day of January, 2017.

/s/ Douglas M. Jarrell

Douglas M. Jarrell